

TED KACZYNSKI to  
BEAU FRIEDLANDER

October 26, 1948

Dear Beau,

As you can see, I'm following your suggestion that we move to a first-name basis. In answer to your letters of October 20 and 21, I have several comments to make concerning the legal issues.

First, as to copyright infringement: Way back in the early months of 1947, when I was just beginning to write Truth versus Lies, I discussed with my defense attorneys the possible copyright problems involved in quoting from my brother's letters in the book. They consulted a copyright lawyer, and with his help we decided that there would be no problem of copyright infringement. The crucial point was a provision in the statute that states that one can publish private letters for the purpose of defending one's reputation, even if the copyright is held by someone else. Since the purpose of Truth versus Lies is clearly to defend my reputation, we decided that there was no doubt that I had a right to publish the letters. You might want to call to your lawyer's attention this provision in the statute, if he isn't already aware of it.

Unfortunately, I don't remember the name of the statute, number of the section, etc., but I will try to get this information from my lawyers. It may have been in a book called Nimmer on Copyright.

The short story, The Wild Colt, by the Uruguayan writer Horacio Quiroga probably is no longer covered by copyright (Quiroga died back

in the 1930's, I think), but I'm not in a position to know this for certain. I found the story in an anthology of Quiruga's work published by a firm in Mexico City, Editores Mexicanos Unidos, and I imagine they would know what the copyright status of the story is.

Second, as to libel issues: I've been told that through his numerous media interviews my brother has by this time made himself into a "public figure," hence it would be extremely difficult for him to win an action for libel. As for my mother and my brother's wife, they too have talked to the media, but I don't know whether they qualify as public figures. I don't know just how much media exposure is required in order to make one into a public figure.

Third, as to the financial issues, compensation of alleged victims and so forth: Your lawyer will not be able to work this out without knowledge of the specifics of my case. It's not just a matter of "Son-of-Sam" laws. As part of my plea agreement with the government, I gave up the right to profit from any writings, regardless of whether they discuss alleged crimes. Also, some of my alleged victims filed civil suits against me, and these suits have been settled, leaving me with a debt of so-and-so many millions of dollars to my alleged victims. I do not have with me a copy of the plea agreement or of the civil settlements. This is

where I really think it would be to your and your lawyer's advantage to get in touch with Judy Clarke and her husband, Speedy Rice. Speedy Rice settled the civil suits for me. Judy and Speedy will be able to give your lawyer the information that he needs about the plea agreement and the civil suits. They may also be able to direct him to the copyright statute that I discussed above.

I might add that I can't sell the book to anyone because in the eyes of the Federal Bureau of Prisons that would constitute "running a business," which is prohibited to inmates. Speedy Rice told me that the usual way around this is to set up a trust; the inmate gives his manuscript to the trust, and the trust then sells the book to a publisher. In my case the trust would subsequently transfer the royalties to the alleged victims. Or something like that. Not being a lawyer, I may have got it somewhat garbled. Your lawyer can ask Speedy Rice about this, too, if he likes.

Judy Clarke's address, phone and fax numbers:

Federal Defenders of Eastern Washington and Idaho  
10 North Post, Suite 700  
Spokane WA 99201

phone: 509-624-7606

fax: 509-747-3539

To return to the copyright issue for a moment.

you wrote, "the entire text of your brother's short story cannot be included without his permission." I assume that you are referring to the story about the old man who ran off with his son's wife (pp. 351-354 of Truth versus Lies). My brother did not originally compose this piece as a literary work. It was simply part of a letter he wrote to me. So I imagine it would be covered by the statute I mentioned earlier that allows me to reproduce letters in order to defend my reputation. On the other hand, I suppose it could be argued that I don't really need this particular item in order to defend my reputation, so if your lawyer wants to delete it, that will be acceptable to me.

It may not be a good idea to ask my brother's permission to print anything of his. He likely will prove uncooperative, and if he finds out what ~~it~~ is to be published he may try to raise some legal obstruction.

\*

Concerning photographs: It is a matter of indifference to me whether they are incorporated in the text or included as 16-page inserts. In my earlier letter I mentioned two photos of my brother ~~with~~<sup>for</sup> which you would have to negotiate with the Sacramento Bee. These illustrate a point in the text (Chapter XV). Apart from these, my lawyers tell me they have some old family photos of mine, but I don't know just what they are. I'll try to find out, and I'll let you know.

\*

As to letting Paul Davis design the book: You say that Davis is "famous for his iconographic depiction of Che Guevara," and you refer to "the political connotations associated with this designer." From this I gather that Paul Davis is associated with the left. As you possibly know, I have an equal aversion to the left and to the right. (And, for that matter, to the middle-of-the-road.) But I'm certainly not going to turn down a man's services as a designer just because I don't like his political opinions. If Davis is identified with the left strongly enough so that it might ~~even~~ lead to a supposition that I have left-wing sympathies myself, I could remedy that by inserting a note in the foreword in which I would thank Davis for his services as a designer but warn the reader not to draw any conclusions about my political sympathies. As for the art-work itself, I have no idea whether I will like it, since I know nothing about Davis. But I assume it is not an author's rule to determine the physical design of his book, ~~so~~ so I see no reason why you shouldn't have Davis do the job.

\*

As for your suggestion that I should write you a "good faith" letter, I'd like to consult my lawyers before I do so, since I don't know what the implications of such a letter are.

\*

The information you got from the warden's office was not quite correct. Besides money, you

would be able to send me paperback books, and periodicals. But I'm not in need of anything at the moment. If and when I am, I will let you know. I do appreciate your kind offer.

Best regards,

Ted Kaczynski